

1899-026 Chancery Causes: Margaret J. Morgan vs. J. K. P. Rutherford &c
Lee Co.

Flanary

CA-Contract Dispute
T-Property

-Seed

To the Hon. W. T. Miller, Judge of the Circuit Court for Lee County:

Humbly complaining your oratrix, Margaret T. Morgan would respectfully represent and show unto your honor that on the 10th day of April, 1897, she sold and conveyed to T. K. P. Rutherford a certain tract of land in consideration of \$400.00, upon which said purchase the said Rutherford paid your oratrix the sum of \$100 in cash and assigned to her two notes executed to him by T. H. Flanary for \$150.00, and which fell due on the 14th day of Jan. 1898 and 1899 respectively, one of which notes has been paid and the other has not, being dated the 14th day of Jan. 1897, and bearing interest from the date thereof, which said note with the endorsement thereon is herewith filed as part thereof. Your oratrix will also further represent and show unto your honor that by the said deed of conveyance, she retained a vendor's lien upon the said property until the said purchase money was fully paid, as will be seen from a copy of the said deed herewith filed and prayed to be considered as part hereof, marked "A".

Your orator will further represent and show unto your honor that on the 14th day of Jan'y 1, 1897, T. K. P. Rutherford sold to T. H. Flanary a certain tract of land, and for a part of the purchase price of which the said T. H. Flanary executed the said two notes above referred to and said Rutherford retained in his said deed of conveyance a lien for the unpaid purchase money, but it being admitted that said Rutherford did not have a title to all of the said property the said Flanary reserved the right to withhold such part of the purchase price as was necessary to indemnify him against the defect in title, as will be seen by copy of the said deed here filed as part hereof marked "B".

The premises considered your oratrix is advised that she is remediless save in a court of equity, that she has a right to have the lien of the said Rutherford enforced against the land which he conveyed to the said Flanary as said Rutherford's assignee, ~~that~~ that if said Flanary's claim for defect of title is put in, that she has a right to have such remaining portion as said Flanary is still owing enforced against the land conveyed to him, and that she has a right to enforce whatever she ~~will~~ will lose on the assignment against the land which she conveyed to said Rutherford.

The prayer therefore of your orator is that the said J.K.P. Rutherford and T.W. Flanary be made parties to this bill of complaint, and that they each be required to answer the same, that the said Flanary be required specially to answer how much if any thing he is damaged by reason of any defect in the title to the land conveyed to him, and what off-set he claims against the said note here sued on; that upon a hearing your oratrix be adjudged a decree for the sale of so much of said lands as shall be necessary to pay the said debt of the said Complainant, and may all other relief be granted her that the nature of her cause may demand and equity sanction, and she will ever pray &c.

Beunghaw Bros. P.O.

\$150⁰⁰

Jan. 14th, 1897

Two years — days after date I promise to pay
to J. K. P. Butcherford —

One hundred and fifty — Dollars,
with interest from date.

100

~~Without effect.~~ Value received, waiving all Homestead and Exemption Laws as to this debt.

Witness Hand and Seal.

No.

Due,

J. W. Flanagan

[SEAL.]

[SEAL.]

April - 21 / 1897

For Value Received
I assign the
within note to
Margaret J Morgan
& guarantee pay and
of maturity & waive
my homestead ex-
ceptions as to the
within note
J. K. P. Rutherford
ma

attest
O'Leary

Margarette J. Morgan, Plaintiff,
vs } in Chancery,

J. H. Harnay & J. K. P. Rutherford, Defts.

This cause came on to be heard upon the bill of the plaintiff and the process returned and was argued by counsel. On consideration thereof, it appearing to the court, that, in pursuance of an agreement made between the defendants J. H. Harnay and J. K. P. Rutherford, the note subscribed in this cause and the cost of this suit were paid in full by the said defendant, J. H. Harnay, which note being paid in full the vendors lien which was retained on the land sold by said J. K. P. Rutherford to said J. H. Harnay, is thereby discharged and released, and also by virtue of said payment the vendors lien which was retained on the tract of land conveyed to said J. K. P. Rutherford by the plaintiff Margarette J. Morgan, was fully satisfied, released and discharged and there being nothing more to be done this cause is stricken from the docket etc.

Margaret J. Morgan
vs } In Chancery
J. K. P. Puthersford et al

Decree

Entered in Chancery
Order Book No 6
Page 289.

Entered this
Nov. 9th 1899.

H. A. W. Shun

This deed made this 10th day of April 1897, between Margaret J. Morgan of Plain City State of Utah of the first part, and James K. P. Rutherford of the County of Lee State of Virginia of the second part. Witnesseth that for and in consideration of the sum of One Hundred dollars cash in hand paid and in consideration of two notes for One Hundred and fifty dollars each executed by T. H. Flannery to said Rutherford and assigned by the seller to said Margaret J. Morgan both of which bear date in January 1897 and bear interest from date and one of which will become payable in January 1898 and the other in January 1899, the receipt of which is hereby acknowledged the said Margaret J. Morgan doth by these presents give grant bargain sell deliver and convey with covenants of general warranty unto said J. K. P. Rutherford a certain tract or parcel of land supposed to contain 76 acres more or

less lying and being in said county
of Lee about 2 miles south east of
Jonesville and is the same land
recently conveyed by O. L. Terry & wife
to said M. J. Morgan and the
same is bounded as follows to wit:
Beginning on a double poplar, thence
N. 15 W. 64 poles to a post oak at the
mouth of the lane, thence S. 79 W. 121
poles to a black oak dogwood
and sourwood, thence S. 6 E. 126
poles to a hickory and gum on a
steep hillside C. E. Cheek's corner
thence with his line N. 56 1/2 E. 154 poles
to the Beginning. To have and to
hold the said parcel of land with
all the appurtenances unto the
said J. K. P. Rutherford and his
heirs forever. Now the said Marga-
ret J. Morgan hereby reserves to her-
self the equitable vendors lien on
the said tract of land until the
residue of the purchase money of
\$300 - with the accruing interest
thereon from January 1897 shall
be fully paid. Witness the following
signature and seal.

Margaret J. Morgan 

State of Utah }
County of Weber } S. S.

J. W. L. Stewart a notary
public in and for the county and
state aforesaid do certify that Marga-
ret J. Morgan whose name is signed
to the foregoing writing bearing date
April 10 1897 has acknowledged
same before me in the county afore-
said to be her act and deed. In wit-
ness whereof I hereto sign my name
and affix my notarial seal at Plain
City in the State of Utah this 13th
day of April 1897.

W. L. Stewart N. P.

My commission Expires Feb. 15, 1901

Virginia Lee County, to wit:

On the office of the Clerk of the
County Court for said County the 21st
day of April 1897, this deed was presented
and together with the certificate
thereto annexed admitted to record.

Teste - S. V. F. Richmond Clerk.

A copy

Teste: - S. V. F. Richmond clerk
By M. D. Richmond d. c.

Margaret J. Morgan
To $\frac{1}{2}$ Deed, Copy.

James K. P. Rutherford
D.B. 34 p. 12

"A"

C 609

This deed made this the 14th day of January 1897 by and between James K. P. Rutherford and Orabella Rutherford, his wife of the first part and T. H. Flauary of the second part both parties of the County of Lee and State of Virginia:

Witnesseth, that for and in consideration of the sum of Eight hundred dollars in hand paid and secured to be paid as follows, Four hundred dollars ~~xxx~~ cash in hand, the receipt of which is hereby acknowledged, one hundred dollars, evidenced by the note of the said T. H. Flauary due and payable in twenty days from this date, One hundred and fifty dollars evidenced by ^{the} note of the said T. H. Flauary due and payable in one year from this date, and the remainder one hundred and fifty dollars evidenced by the note of said T. H. Flauary due and payable in two years from this date, the said James K. P. Rutherford and Orabella, his wife of the first part doth bargain, grant, sell and convey unto the said T. H. Flauary the

following described tracts or parcels of
land, situated in Lee County, Va. about
three miles west of Jonesville, the first
tract bounded as follows, to wit: Begin-
ning at a stake on the Leedy line
corner to the dower and running
thence S. 9 E. 55 poles to a stake,
thence N. 65 E. 24 poles to a cedar and
small walnut on the North side of
the main road, and with it leaving
the dower N. 77 E. 33 poles to a stake
on the old line and with it S. 16 E. 28
poles to a corner of Joel Leedys land
and with lines thereof S. 87 W. 70
poles to a walnut, thence N. 69 W. 31
poles to two poplars on the North
side of the road, thence N. 37 W. 40
poles to a stake, thence N. 67 1/2 E. 57
poles to the beginning containing
22 acres more or less - It being the
same tract of land purchased by
James K. P. Rutherford and wife
from E. E. Flanary and wife, as is
shown by deed now of record in
the County Court Clerk's office of
Lee County, Deed book No 30 page
126 - The second tract bounded as

follows, to wit: Beginning and walnut
and cedar on the main road N. 17
W. $94\frac{3}{4}$ poles to a chestnut thence
N. 24 W. 8 poles to a rock, thence
S. $76\frac{3}{4}$ W. $29\frac{1}{4}$ poles to the spring,
thence S. $1\frac{3}{4}$ E. 4 poles to a rock, thence
N. 64 W. 5 poles to a rock, thence N. 6
W. 14 poles to a rock, thence N. $64\frac{1}{2}$
W. $64\frac{1}{2}$ poles to a rock, thence S. 23
E. 30 poles to a dogwood, thence S. $30\frac{1}{2}$
W. 29 poles to a rock, thence S. $35\frac{1}{2}$
E. 70 poles to a rock, thence N. $68\frac{1}{2}$
E. 60 poles to a rock, thence S. $7\frac{1}{2}$
E. 55 poles to a rock, thence N. 66
E. 24 poles to the Beginning con-
taining 57 acres of the dower tract
of Elvina Ledy widow of Joel Ledy,
decd, this deed conveys the said
dower interest and the fee simple
interest in the same also - as is
shown by deed executed to said J.
K. P. Rutherford by Boyd Rutherford
and the heirs of Joel Ledy decd. all
of which deeds are of record in
the County Court Clerk's office of
Lee County to which reference is
hereby made for a more particu-
lar description. And the parties

of the first part sells and conveys to the party of the second part another tract of land situated on the Chesunt ridge, containing about $4\frac{1}{2}$ acres more or less, being a piece of woodland, bounded by the lands of James Insley, Tucker Wise and Boyd Rutherford, to have and to hold with all the appurtenances thereto belonging, and the parties of the first part covenant with the party of the second part that they warrant generally the title to the lands hereby conveyed. And it being admitted that said J. K. P. Rutherford has not as yet secured deeds from some of the heirs of Joel Leedy dec. It is agreed that the said T. H. Flannery shall hold a sufficient amount in his hands out of the last deferred payment, to compensate him in securing the title from said heirs - and it is further understood that the vendors equitable lien is hereby retained until the purchase money is paid

in full - Witness the following
signatures and seals, this the
date above written.

James K. P. ^{his} ~~mark~~ Rutherford Seal
Isabella ^{her} ~~mark~~ Rutherford Seal

Virginia Lee County to wit:-

I O. M. S. Ely, a Notary Public in and
for the County and State aforesaid, do
hereby certify that James K. P. Rutherford
and Isabella Rutherford his wife whose
are signed to the foregoing deed bear-
ing date Jan. 14th 1897, have acknowl-
edged the same before me in my
County and State aforesaid. Given
under my hand this the 14th day
of Jan. 1897.

O. M. S. Ely N. P.

Virginia Lee County to wit:-

In the office of the Clerk of the
County Court of said County, the
15th day of January 1897, this deed
was presented and together with the
certificate thereto annexed, admitted to
record.

Teste: S. V. F. Richmond Clerk.

A copy

Teste: S. V. F. Richmond clerk
By M. D. Richmond D. C.

J. H. P. Rutherford

To Deed. Copy

T. H. Flanary

D.B. No. 33 p. 121

"B"

Clerk 7/00

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

again
WE COMMAND YOU THAT YOU SUMMON *J. K. P. Rutherford and*
L. H. Flanary

to appear at the Clerk's office of the Circuit Court of the County of Lee at the court-house thereof, at the Rules to be holden for said Court, on the *1st* Monday in *September*, 189*9*, to answer a bill in chancery, exhibited against *them* in our Court by

Margaret J. Morgan

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *26th* day of *July*, 189*9*, and in the 12*4th* year of the Commonwealth.

A. B. Munsey Clerk.

A copy—Teste: _____ Clerk.

July 27

Margaret J. Morgan
VS. { SUBPOENA
IN CHANCERY.

J. K. P. Rutherford et al
P Bros p.q.

To 1st Sept Rules.
CIRCUIT COURT.

Executed July
27, 1899, by deliv-
ering an attested
office copy of the
within Spa. to J.
H. Flanary.

J. P. Ely D.S.
for W. J. Milkeson
S. L. C.

The Commonwealth of Virginia,

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189*9*, and in the 12 *4th* year of the Commonwealth.

A. B. Munsey Clerk.

A copy—Teste: Clerk.

Margaret J. Morgan
VS. { SUBPOENA
IN CHANCERY.

J. K. P. Rutherford et al
P. Bros p.q.

To/st Sept Rules.
CIRCUIT COURT.

Executed July 26th 1899
by delivering an attested
office copy of the within
Spa in Chy to J. K. P.
Rutherford.
W. J. Williams S.C.